IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Civil Writ Petition No.4101 of 2006

Smt.Manjula Ramchandra Shetye
and ors. Petitioners
Vs.
Smt.Suhasini Jagannath Bhange & ors. Respondents

Mr.V.S.Gharat for petitioners.

CORAM: B.H.MARLAPALLE,J.

June 26, 2006.

P.C.

. Heard Mr.Gharat, the learned counsel for the petitioners. S.C. Suit No.6637 of 2002 has been decided by the learned Judge of the City Civil Court at Mumbai on 15th March 2005 and inspite of the notices being served the present petitioners, who were impleaded as defendants in the said suit, did not choose to appear before the said Court and, therefore, the Suit was decreed ex parte. They did not even approach the trial Court to file an application for restoration of the suit and Execution Application No.710 of 2005 has also been decided on 18/10/2005. In this petition filed under Article 227 of the Constitution the petitioners claim for setting aside both these orders and that too on humanitarian ground.

. The petitioners' remedy of filing a writ petition under Article 227 of the Constitution is belated and the petitioners have allowed by their choice the Courts below to decide the suit as well as the execution proceedings in absentia. They will have to approach the very same Courts for restoration, if permissible in law even as of now. There is no reason to entertain a writ petition under Article 227 of the Constitution at this stage.

. The petition is, therefore, rejected but with liberty to the petitioners to take appropriate steps before the Courts below, as per law.

(B.H.MARLAPALLE,J.)